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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,992	07/30/2003	Ronald C. Elliott	ECC-02200	2200
28960	7590	09/16/2005	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			OLSON, LARS A	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/631,992

Applicant(s)

ELLIOTT ET AL.

Examiner

Lars A. Olson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-36 and 38-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-36, 38-42 and 44 is/are rejected.
- 7) ☒ Claim(s) 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. An amendment was received from the applicant on July 28, 2005.
2. Claims 9 and 37 have been canceled.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6, 10, 15-19, 36, 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Mallan (GB 2242180A).

Mallan discloses the same storage bin as claimed, as shown in Figures 1-8, that is comprised of a plastic container, defined as Part #1, with an open chamber and a label securing structure that is further comprised of one or more apertures, defined as Parts #10-12, and a plastic label holder, defined as Part #13, that is configured to rotatably and detachably couple with said container, as shown in Figures 6-8, said label holder having one or more protrusions, defined as Parts #16 and 17, that are configured to cooperatively engage with said one or more apertures of said container. Said label holder is further configured to hold and allow insertion and removal of a label or card, defined as Part #8 in Figure 1.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7, 8, 14, 38, 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mallan.

Mallan, as set forth above, discloses all of the features claimed except for the use of a label of a specific size, and a label holder that is made from a clear material.

The use of a label of a specific size in combination with a label holder would be considered by one of ordinary skill in the art to be a design choice based upon the desired size of said label, and the required size of said label in order to make indicia printed on said label readable.

The use of a label holder made from a clear material instead of an opaque material would also be considered by one of ordinary skill in the art to be a design choice based upon the need for a label held within said label holder to be visible through said label holder.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a label of a specific size and a label holder made from a clear material in combination with the storage bin as disclosed by Mallan for the purpose of providing a storage bin with a label holder that capable of holding and supporting a range of label sizes without obscuring said label.

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7. Claims 2-5, 11-13, 20-35 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mallan in view of McEntee (US 5,738,241).

Mallan, as set forth above, discloses all of the features claimed except for the use of a container with a lid, a tab on said lid for facilitating removal of said lid from said container, and one or more handles on said container.

McEntee discloses a plastic storage bin, as shown in Figures 1-8, that is comprised of a container, defined as Part #10, a lid, defined as Part #30, that is configured to mate with said container in order to create a positive seal, a tab, defined as Part #32, that is provided on said lid in order to facilitate removal of said lid from said container, and a plurality of handles, defined as Part #15, that are coupled to said container.

The use of a label of a specific size in combination with a label holder would be considered by one of ordinary skill in the art to be a design choice based upon the desired size of said label, and the required size of said label in order to make indicia printed on said label readable.

The use of a container made from a specific material would also be considered by one of ordinary skill in the art to be a design choice based upon the required strength and physical characteristics of the material for said container.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a container with a lid having a tab, and a plurality of handles on said container, as taught by McEntee, in combination with the storage bin as

disclosed by Mallan for the purpose of providing a storage bin with a closable lid and handles in order to facilitate the sealing and carrying of said storage bin.

***Allowable Subject Matter***

8. Claim 43 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments filed on July 28, 2005 regarding claims 1-8, 10-36 and 38-44 have been fully considered but they are not persuasive.

10. The applicant argues that Mallan (GB 2242180A) does not disclose a label holder that is configured to rotatably and detachably couple with a plastic container.

11. In response to the applicant's argument, Mallan discloses a plastic container with a label securing structure having one or more apertures, as shown in Figure 1, in combination with a plastic label holder, as shown in Figure 5, that is configured to rotatably and detachably couple with said container, where said label holder has one or more protrusions that are configured to cooperatively engage with said one or more apertures of said container, as shown in Figure 6. Said plastic label holder detachably couples with said plastic container by means of said protrusions, as shown in Figure 6, and rotatably couples with said plastic container since said plastic label holder is capable of pivoting about a vertical axis with respect to an end that is detachably

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coupled to said plastic container by said protrusions. Therefore, for the reasons given above, the rejection of claims 1-8, 10-36 and 38-44 is deemed proper and is not withdrawn.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

lo

September 15, 2005

**LARS A. OLSON  
PRIMARY EXAMINER**

*Lars Olson*  
9/15/05